

Confidential Case Outline Document (Dispute Resolution)

Central Practice Direction – Family Law Case Management

Please type or print clearly. Attach extra pages if you need more space to answer any questions.

Note: This document is to be provided on a without prejudice basis and will not be placed on the Court file. Such documents are privileged and may not be used in contested hearings or for purposes other than genuine attempts to resolve disputes between the parties.

Filed on behalf of: Heather Anne Cooke
(specify full name of party)

- Applicant
 Respondent
 Other (specify:_)

COURT USE ONLY

Client ID _____
 File number NCC3896/2023
 Filed at _____
 Filed on _____
 Court location 61 Bolton Street,
Newcastle, NSW
2300

THIS DOCUMENT IS PREPARED ON A WITHOUT PREJUDICE BASIS

Part A About the parties

APPLICANT 1

Family name as used now

Cooke

Given names

Stephen Christopher

RESPONDENT 1

Family name as used now

Cooke

Given names

Heather Anne

Part B Documents relied upon

List each Court document to be relied upon at the conciliation conference/ family dispute resolution conference/mediation, including any *Initiating Application/Response to Initiating Application*, affidavit, *Financial Statement* and expert report. Include the date of filing.

Document	Filed by	Date of filing
Amended Response to Initiating Application	Respondent	8 April 2024
Affidavit of Heather Anne Cooke	Respondent	3 April 2024
Financial Statement	Respondent	8 April 2024
Case Outline (Interim Hearing)	Respondent	11 April 2024
Application in a Proceeding	Respondent	31 May 2024
Affidavit of Heather Anne Cooke	Respondent	31 May 2024
Financial Statement	Respondent	31 May 2024

If you are participating in a **Family Dispute Resolution Conference**, or non-court based mediation in relation to parenting matters please complete Parts C and E below.

If you are participating in a **Conciliation Conference**, or non-court based mediation in relation to financial matters please complete Parts D and E below.

If you are participating in a court-based or private dispute resolution conference in relation to both financial and parenting matters, please complete all parts of this document.

Part C Parenting proceedings

Please complete this section if you are participating in:

- a Family Dispute Resolution Conference with a Registrar of the Court, or
- non-court based mediation, or
- Family Dispute Resolution in relation to parenting matters.

If you are participating in a Conciliation Conference, or non-court based mediation or Family Dispute Resolution in relation to financial matters please skip this section and complete Parts D and E.

Agreed or partially agreed arrangements

Identify the arrangements for the child/ren currently agreed between the parties and any proposed orders that are agreed.

Include where you agree about certain arrangements for the child/ren, but disagree about the wording of the orders sought

Best interests

Briefly outline the issues relevant to the best interests of the child/ren (section 60CC of the Family Law Act)

Current arrangements

Briefly outline any changes to the children's arrangements from those identified in your filed material

Domestic and family violence

Briefly outline any domestic and family violence orders made or varied, or applications filed, since the proceedings were commenced. Ensure a copy of the most recent family violence order (where relevant) has been provide to the Court.

Part D Financial proceedings

Please complete this section if you are participating in:

- a Conciliation Conference with a Registrar of the Court, or
- non-court based mediation, or
- Family Dispute Resolution in relation to financial matters.

If you are participating in a Family Dispute Resolution Conference or non-court based mediation or Family Dispute Resolution in relation to parenting matters only, please skip this section and complete Parts C and E.

Property interests, superannuation and financial resources

Please see attached Balance Sheet

Description		Ownership	Applicant's value	Respondent's value	
ASSETS					
1					
2					
3					
4					
5					
6					
Assets subtotal					
LIABILITIES					
7					
8					
9					
10					
11					
12					
Liabilities subtotal					
SUPERANNUATION					
Name of Fund		Type of interest	Member	Applicant's value	Respondent's value
13					
14					
15					
16					
17					
Superannuation subtotal					
TOTAL (assets – liabilities)					
TOTAL (assets – liabilities + superannuation)					
FINANCIAL RESOURCES					
Description		Ownership	Applicant's value	Respondent's value	
18					
19					
Financial resources subtotal					
OTHER					
Description		Ownership	Applicant's value	Respondent's value	
20					
21					
Other subtotal					

TOTAL (assets – liabilities + superannuation + financial resources + other)

Issues relevant to property adjustment

Briefly outline the issues relevant to sections 79 or 90SM of the Act

Initial contributions

1. In May 2012, at the commencement of cohabitation the Applicant Husband did not have significant assets or super. The Applicant Husband had a significant amount of credit card debt and obtained a loan from his parents to pay off the debt.
2. At the commencement of cohabitation, the Respondent Wife owned the Southport Property, which she purchased in approximately 2008 for \$310,000.00 with a 5% deposit and 95% loan. The Respondent Wife made home loan repayments for four (4) years prior to the date of cohabitation. The Respondent Wife otherwise did not have significant assets, liabilities or super.
3. While the Applicant Husband paid off his loan from his parents, the Respondent Wife was financially responsible for the parties' other expenses.
4. The Applicant Husband was earning approximately \$80,000.00 per annum working as an insurance broker in Canada. The Respondent Wife was earning approximately \$55,000.00 per annum in a medical Fellowship position in Canada.

Relationship contributions

5. From the commencement of cohabitation until June 2015, the parties financial, non-financial and homemaker/parent contributions were more or less equal. The parties did not receive any lump sum payments from third parties.
6. On 20 August 2014, Christian was born. The Respondent Wife took leave without pay (as required by her work visa) for eight (8) weeks and used her savings to support the family. The Applicant did not increase his financial contributions during this period of leave. The Respondent Wife then returned to her Fellowship position full-time and the parties employed a nanny to care for Christian and perform household duties. The parties each financially contributed to their expenses and the Respondent Wife cooked all meals.
7. In July 2015, parties relocated from Canada to Australia. From this point, the Respondent Wife was the primary breadwinner and made the majority of non-financial and homemaker/parent contributions. The Applicant Husband could not yet work or study due his temporary visitor visa.
8. In October 2015, the Respondent Wife commenced part-time work in private practice and the Applicant Husband obtained Australian residency and a tax file number for the study purposes.
9. In February 2016, the Applicant Husband enrolled in an online IT course run by RMIT in Melbourne. The Respondent Wife financially supported the Applicant Husband by paying his

- university fees and daycare fees for Christian two (2) days each week to facilitate the Applicant's focus on his studies.
10. On 27 January 2017, Joshua was born. The Respondent Wife took maternity leave from January to April 2017. From January 2017, to continue to facilitate the Applicant's studies, the Respondent Wife paid for Christian to attend daycare three (3) days per week and hired a nanny to care for Joshua and perform household duties. In mid-2017, the Applicant's university enrolment was terminated due to repeated failure of subjects.
 11. On or around 14 September 2018, the parties purchased the property at 1/213 Morgan Street, Merewether in their joint names for the sum of \$1,224,000 funded by a deposit in the sum of \$122,500.00 and three (3) home loans through Westpac Bank.
 12. From approximately 2015 when the family relocated to Australia, to the present, the Applicant Husband avoided work and study and by default assumed the role of homemaker and parent. The Applicant Husband was not engaged in any paid employment and made no financial contributions to the matrimonial property pool. As the Respondent Wife was more involved in spending time on his computer and made minimal contributions by way of homemaker and parent duties.
 13. From approximately 2015 when the family relocated to Australia to the present, the Respondent Wife worked extensive hours as a Cardiologist and fulfilled the primary breadwinner role, with exclusive responsibility for all family expenses. In addition, the Respondent Wife was primarily responsible for the homemaker and parent duties and made significant contributions as homemaker and parent, including:
 - (a) Responding to the children's needs as newborns and toddlers including feeding and bathing,
 - (b) Arranging appointments with psychologists and paediatricians for Christian, which resulted in Christian being assessed and diagnosed with ADHD,
 - (c) Managing ongoing medication and treatment of Christian's ADHD, including communicating with Christian's school, booking all paediatric, counselling and Lab Learning appointments and attending wherever possible around work schedules or otherwise directing the Applicant Husband when and where to attend the appointments,
 - (d) Organising other routine appointments for the children, including immunisations, GP checkups, dental and haircut appointments,
 - (e) Purchasing clothes for the children or otherwise preparing instructions for the Applicant Husband of what clothes to purchase and where they should be purchased,
 - (f) Attending hospital with the children as required,

- (g) Arranging sporting and leisure activities, insurances and uniform requirements, as well as pick ups if the activities finished at 5:00pm or later,
- (h) Arranging schooling activities, including permission slips, payment for excursions, dress up days, sporting carnivals, food or money donations and discos,
- (i) Ensuring the Applicant Husband and the children were aware of variations to school start or finish times,
- (j) Shopping for the children's friends' birthday gifts and cards and attending the birthday parties,
- (k) Arranging play dates for the children,
- (l) Arranging school uniforms each day and replacements of school uniforms, and
- (m) Homemaker duties such as preparing dinners and cleaning the Merewether Property.

Post separation contributions

14. Since separation on 17 November 2023, the Respondent Wife has made significantly greater financial, non-financial and homemaker/parent contributions than the Applicant. The Respondent Wife has generated all family income and has had primary care of the children.
15. On the date of separation, the Respondent Wife left the Merewether Property with the children and secured rental accommodation in the Newcastle area (address not to be disclosed to the Applicant Husband). The Applicant Husband has since enjoyed exclusive occupation and use of the Merewether Property.
16. On or around the date of separation, the Respondent Wife removed approximately \$360,000.00 from joint offset and loan accounts and deposited this sum into accounts in her sole name to ensure she could meet upcoming expenses such as income tax, BAS, home loan and credit card repayments and other living expenses for the family and the Applicant Husband could not remove the funds for excessive personal use.
17. The Respondent Wife has been solely responsible for the following significant expenses (some of which have been paid from the joint funds removed at the time of separation):
 - (a) The Merewether Property home loans repayments, which were approximately \$1,207.00 per week but since 10 June 2024, repayments have increased to approximately \$1,700.00 per week due to expiry of the fixed interest period on the home loan,
 - (b) The Southport Property home loan repayments, being \$471.00 per week,
 - (c) Rent, being \$800.00 per week,
 - (d) Since the Interim Hearing on 11 April 2024, Spousal Maintenance in the sum of \$1,200.00 per week to the Applicant,
 - (e) All children's expenses, and

- (f) Various other expenses (not including legal fees) totalling \$7,642.00 per week.
18. The Respondent's Financial Statement filed on 31 May 2024, indicates that the Respondent's total expenses of approximately \$11,320.00 per week currently exceeds her total gross income of \$10,802.00 per week.
19. Pursuant to the Interim Orders dated 23 April 2024, the Merewether Property is to be sold. The Respondent Wife has made greater non-financial contributions by communicating with the necessary third parties, particularly the real estate agent, to facilitate the sale as required by the Orders. The Applicant Husband has consistently delayed the sale and breached the Orders by:
- (a) Failing to keep the Merewether Property clean and in a fit and proper state of repair,
 - (b) Failing to allow the agent, a cleaner and a photographer to access the Merewether Property,
 - (c) Proposing to instruct a different agent to the one specified in the Orders,
 - (d) Proposing further works be undertaken prior to listing the Merewether Property for sale, despite contrary advice from the agent, and
 - (e) Instructing the conveyancer to act over a month after the deadline set in the Orders.
20. Since separation, the children have lived with the Respondent Wife and spent time with the Applicant Husband as follows:
- (a) From separation to 12 January 2024, as arranged between the parties' Solicitors, and
 - (b) From 12 January 2024 (Family Dispute Resolution) current five (5) nights per fortnight (and continuing following interim judgment on 23 April 2024).
21. The Respondent Wife continues to be primarily responsible for the homemaker and parent duties since separation as she was during the relationship.

Future needs factors

22. The Respondent Wife acknowledges that she likely has a greater income earning capacity than the Applicant, even after he secures full-time employment.
23. The Applicant Husband is able-bodied and healthy and can obtain employment and work on a part-time or full-time basis. The children are at school and OOSH can be used for before and after school care as required.
24. The parties are seeking competing live with Orders. The Applicant Husband seeks an equal shared parental responsibility/joint decision-making Order and the Respondent Wife seeks a sole parental responsibility/decision-making Order. Based on the arrangements since separation, the Child Impact Report dated 8 March 2024 and the Interim Orders dated 23 April 2024, it is likely the children will continue to live with the Respondent Wife and, irrespective of parental

	responsibility/decision-making Orders, the Respondent Wife will continue to be primarily responsible for organising and meeting the costs of the children’s medical, educational and social engagements.			
Contributions assessment State contribution assessment of each party in percentage (%) terms	Applicant: 40% Respondent: 60%			
‘Future needs’ adjustment (if any) State any adjustment for ‘future needs’ sought in percentage (%) terms If no adjustment is sought, say ‘Nil’	Applicant: 10% Respondent: 0%			
Overall division sought State the overall adjustment sought in percentage (%) terms If no adjustment is sought, say ‘No adjustment’	Applicant: 50% Respondent: 50%			
List of property to be retained by you List the assets, liabilities and financial resources to be retained by you in accordance with the percentages (%) above. Please see attached Proposal	Asset/liability/financial resource	Value	Current ownership	Do all parties agree to you retaining this item? (Y/N)
	1 Eg: Item at 1 of table	Value at 1 of table	Respondent	Y

Chronology

Briefly outline the significant events that are relevant to the issues in dispute	Date	Event (provide brief description)	Agreed event (Y/N)
	31 July 1978	Respondent Wife born, now aged 45.	
	27 October 1981	Applicant Husband born, now aged 42.	
	December 2003	Respondent Wife completed Bachelor of Medicine at University of Sydney.	
	2004	Respondent Wife began internship.	
	2007	Respondent Wife commenced speciality in Cardiology.	
	8 June 2008	Respondent Wife purchased the Southport Property.	
	July 2011	Respondent Wife obtained work visa for Fellowship position in Canada.	
	August 2011	Parties commence relationship.	
	May 2012	Parties commence cohabitation.	
	26 September 2012	Parties were married in Canada.	
	20 August 2014	Christian born, now aged 9.	
	July 2015	Parties and Christian moved from Canada to Australia. Applicant Husband obtained temporary visitor's visa and was unable to work or enrol in University.	
	October 2015	Applicant Husband obtained Australian residency and TFN to study IT at University. Respondent Wife commenced part-time work in private practice.	
	February 2016	Applicant Husband enrolled in IT course run through RMIT in Melbourne. To allow the Applicant Husband to study, Christian was enrolled in two (2) days a week at Kinda Kapers day care in Charlestown.	
	27 January 2017	Joshua born, now aged 8. Respondent Wife went on maternity leave.	


	August 2017	Respondent Wife returned to work.	
	21 September 2018	Parties purchased the Merewether Property.	
	March 2022	Respondent Wife arranged psychological assessment for Christian, which pointed to a diagnosis of ADHD.	
	June 2022	Christian diagnosed with ADHD.	
	June 2023	Applicant Husband diagnosed with anxiety.	
	September 2023	Applicant Husband diagnosed with ADHD.	
	17 November 2023	Parties separate with finality. Respondent Wife moved out of the Merewether Property and into a rental property with the children.	
	17 November 2023 to 12 January 2024	Children live with Respondent Wife and spend a few nights each fortnight with the Applicant Husband as arranged between Solicitors through correspondence.	
	5 December 2023	Applicant Husband filed Initiating Application.	
	12 January 2024	Parties attended FDR and reached agreement for the children to live with the Respondent Wife and spend five (5) nights per fortnight with the Applicant Husband.	
	29 January 2024	First Return date before Judicial Registrar Furner.	
	5 February 2024	Respondent Wife filed Response to Initiating Application.	
	29 February 2024	Child Impact Report prepared by Mr Drew Cowen.	
	8 March 2024	Child Impact Report released to the parties.	
	2 April 2024	Applicant Husband filed Amended Initiating Application.	
	8 April 2024	Respondent Wife filed Amended Response to Initiating Application.	

	11 April 2024	Interim Hearing before Judge Carty. Parties entered Interim Consent Orders in respect of Property, including for the sale of the Merewether Property.	
	31 May 2024	Respondent Wife filed Application in a Proceeding in respect of the sale of the Merewether Property.	
	9 July 2024	Initiating Application for Final Orders filed by Applicant Husband listed for Directions Hearing before Judicial Registrar Furner.	
	23 July 2024	Application in a Proceeding filed by Respondent Wife listed for Directions Hearing before Judicial Registrar Furner.	

Issues relevant to maintenance	
<p>Briefly outline the matters in sections 72, 74, and 75, or sections 90SE, and 90SF of the Family Law Act relevant to any application for maintenance</p>	<ol style="list-style-type: none"> 1. The Applicant Husband is relatively young, has good health and has sufficient mental capacity for gainful employment. 2. The Respondent Wife will likely continue with the primary care of the children leaving the Applicant Husband sufficient time to work on a full time basis. 3. The Applicant Husband was gainfully employed on a full time basis in the insurance industry in Canada prior to emigrating to Australia and is likely to secure employment in this industry. 4. The Applicant Husband has gained significant skills in the IT industry through self-directed learning over approximately the past 10 years and is likely to have the option to pursuing employment in this industry, should he wish. 5. The Respondent Wife had largely established her earning capacity prior to the commencement of the relationship. Her role as primary parent and homemaker while she continued as sole breadwinner throughout the relationship indicates that the Applicant Husband did not contribute to her earning capacity. 6. The Applicant Husband will receive a significant property division as a result of a section 79 claim, such that he will have sufficient funds so that he will not require the payment of spousal maintenance.
<p>Need</p> <p>State the amount of maintenance needed (if any) and the frequency of such amount (eg, weekly, monthly, or as a lump sum)</p>	<p>\$Nil</p>
<p>Capacity</p> <p>State the amount of maintenance that could be paid (if any) and the frequency of such amount (eg, weekly, monthly, or as a lump sum)</p>	<p>\$Nil</p>

Part E Certification

NOTE: Parties are expected to be prepared to make and consider reasonable offers of settlement at any stage of the proceedings. Failure to do so may have costs consequences.

Signed	Date
	26/06/24

Signed by

the applicant lawyer for the applicant

the respondent lawyer for the respondent

Independent Children's Lawyer

the other party (specify _____) lawyer for the other party (specify _____)

Approved by the Chief Justice/Chief Judge pursuant to Rule 15.21

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